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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/689,150	10/20/2003	Jerrold M. Dobbins	NPS-PT011.6	6403

3624 7590 04/13/2005

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PHILADELPHIA, PA 19103

EXAMINER

CHAMBERS, TROY

ART UNIT	PAPER NUMBER
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3641

DATE MAILED: 04/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/689,150

Applicant(s)

DOBBINS, JERROLD M.

Examiner

Troy Chambers

Art Unit

3641

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 January 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 4-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 4-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☒ Other: Request for Information

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the angle that forms 18 to 28 degrees, the horizontal axis of the discharge port must be shown or the feature(s) canceled from the claim(s). Currently, it appears that all angles formed by the surfaces of the bolt and valve stem are greater than 90 degrees. Even the angle formed with respect to the horizontal axis of the discharge port is obtuse. No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the examiner does not accept the changes, the

Art Unit: 3641

applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

2. The drawings are objected to under 37 CFR 1.83(a) because they fail to show the angle of 18 to 28 degrees as described in the specification. Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the examiner does not accept the changes, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

1. The disclosure is objected to because of the following informalities: on page 7 of the specification, "23 degrees +/- degrees" should be "23 degrees +/- 5 degrees" to maintain consistency with the claims and applications 10/185203 and 09/528482.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 4-11 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by applicant's disclosure of the Bushmaster 2000 on at least March 02, 1999. The earliest filing date in which applicant can claim support for the present claims appears to be 03/17/2000 in which page 5 of application 09/528482 specifies that the inner surfaces of valve stem guide 30 and bolt 9 are machined to form angles of 23 degrees +/- 5 degrees. However, provisional applications 60/125302 and 60/138323 disclose that specifically angled surfaces "within the breech" have optimal angles of 23 degrees +/- 5 degrees. Support is lacking in the provisional application for two reasons: 1) the valve stem is not located in the breech; and, 2) there is no description of what surfaces in the breech form the claimed angled surface. Hence, subject matter directed to the specifics of said angled surfaces will not receive priority to the provisional applications.

Conclusion

4. This Office action has an attached requirement for information under 37 CFR

1.105. A complete reply to this Office action must include a complete reply to the attached requirement for information. The time period for reply to the attached requirement coincides with the time period for reply to this Office action.

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art cited on form PTO-892 are cited as of interest to show similar paintball guns.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Troy Chambers whose telephone number is (571) 272-6874 between the hours of 7:00 a.m. to 3:30 p.m., M-F. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael J. Carone, can be reached at (571) 272-6875.

A handwritten signature in black ink, appearing to read "M. Carone", is written over the end of the sixth paragraph.

Request for Information

7. Applicant and the assignee of this application are required under 37 CFR 1.105 to provide the following information that the examiner has determined is reasonably necessary to the examination of this application.

8. An issue of public use or on sale activity has been raised in this application. In order for the examiner to properly consider patentability of the claimed invention under 35 U.S.C. 102(b), additional information regarding this issue is required as follows: The Examiner requests the earliest date in which the applicant's paintball gun having angled surfaces of 18 to 28 degrees in the bolt and valve stem guide was offered for sale to the public. The Examiner also requests supporting documentation thereof.

Applicant is reminded that failure to fully reply to this requirement for information will result in a holding of abandonment.

9. In response to this requirement, please provide answers to each of the following interrogatories eliciting factual information:

- a. Are the claims and specification directed to the gun known as the Bushmaster 2000?
- b. Did the Bushmaster 2000, as of its earliest date of disclosure or sale to the public, have an angled bolt port of about 18 to 28 degrees and a valve stem guide having angled surfaces of 18 to 28 degrees?
- c. What was the earliest date of disclosure or sale to the public of the Bushmaster 2000 as described in question b?

Art Unit: 3641

The authority for the Office to make such requirements arises from the statutory requirements of examination pursuant to 35 U.S.C. 131 and 132. An examiner or other Office employee may make a requirement for information reasonably necessary to the examination or treatment of a matter in accordance with the policies and practices set forth by the Director(s) of the Technology Center or other administrative unit to which that examiner or other Office employee reports. >See *Star Fruits S.N.C. v. United States*, 280 F.Supp.2d 512, 515-16 (E.D. Va 2003) ("Beyond that which a patent applicant is duty-bound to disclose pursuant to 37 CFR 1.56, an examiner may require the production of such information as may be reasonably necessary to properly examine or treat the matter.")

10. This requirement is an attachment of the enclosed Office action. A complete reply to the enclosed Office action must include a complete reply to this requirement. The time period for reply to this requirement coincides with the time period for reply to the enclosed Office action.



4/11/05



MICHAEL J. CARONE
SUPERVISORY PATENT EXAMINER